



January 5, 2010

HOUSE BILL No. 1001

DIGEST OF HB 1001 (Updated December 16, 2009 1:12 pm - DI 75)

Citations Affected: IC 2-2.1; IC 2-7; IC 3-9; IC 3-14; IC 4-2; IC 4-13.

Synopsis: Lobbyists; campaign contributions. Reduces from \$100 to \$50 the minimum reportable amount for: (1) the total daily gifts to a legislator or legislative employee given by a registered lobbyist; or (2) a single gift received by a legislator or legislative candidate. Provides that an individual who holds a state elected office and ceases to hold the state office after June 30, 2010, may not be registered as a lobbyist for 365 days after expiration of the term of office. Provides that an individual who holds a position in the executive branch appointed by the governor (other than a special state appointee) and who ceases to hold that appointment after June 30, 2010, may not be registered as a lobbyist for 365 days after ceasing to hold the appointive position. Provides that a member of the general assembly may not be registered as a lobbyist for 365 days after ceasing to be a member of the general assembly. Provides that a lobbyist may not represent multiple clients if the representation involves a conflict of interest. Defines "conflict of interest". Provides that the governor and the governor's candidate's committees may not (1) solicit campaign contributions; (2) accept campaign contributions; or (3) conduct other fundraising activities during the long session of the general assembly and during the day before, the day of, and the day after each organization day. Provides that the prohibition does not apply to the governor's participation in party activities conducted by a regular party committee. Imposes the same fundraising restrictions for legislators for the same period around organization day of a long session. (Currently, legislators may not
(Continued next page)

Effective: July 1, 2010.

Bauer, Murphy

November 17, 2009, read first time and referred to Committee on Rules and Legislative Procedures.
January 5, 2010, reported — Do Pass.

HB 1001—LS 6185/DI 75+



C
o
p
y

conduct fundraising activities during the long session beginning in January.) Provides that persons with contracts with state government or who bid on contracts with state government and certain persons affiliated with the contractors and bidders may not make political contributions to an individual who holds a state office or is a candidate for a state office. Requires persons with contracts with state government or who bid on contracts with state government to register with the department of administration (department). Requires the department to make the information about registrants available in a searchable data base on the department's web site. Requires registrants to notify their affiliated persons that they are registered. Provides civil and criminal penalties for violations. Provides that contractors or bidders who violate the statutes may be found nonresponsible and have their contracts voided. Provides that state employees in the executive branch who have purchasing or procurement authority may not solicit political contributions unless the soliciting individual is a candidate for public office. Provides that state officers, employees, and appointees in the executive branch may not accept certain other employment.

**C
o
p
y**



January 5, 2010

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

C
O
P
Y

HOUSE BILL No. 1001

A BILL FOR AN ACT to amend the Indiana Code concerning the general assembly.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 2-2.1-3-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Not later than
3 seven (7) calendar days following the first session day in January of
4 each year every member of the general assembly shall file with the
5 principal clerk of the house or secretary of the senate, respectively, a
6 written statement of the member's or candidate's economic interests for
7 the preceding calendar year listing the following:
8 (1) The name of the member's or candidate's employer and the
9 employer of the member's or candidate's spouse and the nature of
10 the employer's business. The house of representatives and senate
11 need not be listed as an employer.
12 (2) The name of any sole proprietorship owned or professional
13 practice operated by the member or candidate or the member's or
14 candidate's spouse and the nature of the business.
15 (3) The name of any partnership of which the member or

HB 1001—LS 6185/DI 75+



candidate or the member's or candidate's spouse is a member and the nature of the partnership's business.

(4) The name of any corporation of which the member or candidate or the member's or candidate's spouse is an officer or director and the nature of the corporation's business. Churches need not be listed.

(5) The name of any corporation in which the member or candidate or the member's or candidate's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars (\$10,000). No time or demand deposit in a financial institution or insurance policy need be listed.

(6) The name of any state agency or the supreme court of Indiana which licenses or regulates the following:

(A) The member's or candidate's or the member's or candidate's spouse's profession or occupation.

(B) Any proprietorship, partnership, corporation, or limited liability company listed under subdivision (2), (3), or (4) and the nature of the licensure or regulation.

The requirement to file certain reports with the secretary of state or to register with the department of state revenue as a retail merchant, manufacturer, or wholesaler shall not be considered as licensure or regulation.

(7) The name of any person whom the member or candidate knows to have been a lobbyist in the previous calendar year and knows to have purchased any of the following:

(A) From the member or candidate, the member's or candidate's sole proprietorship, or the member's or candidate's family business, goods or services for which the lobbyist paid in excess of one hundred dollars (\$100).

(B) From the member's or candidate's partner, goods or services for which the lobbyist paid in excess of one thousand dollars (\$1,000).

This subdivision does not apply to purchases made ~~after December 31, 1998~~ by a lobbyist from a legislator's retail business made in the ordinary course of business at prices that are available to the general public. For purposes of this subdivision, a legislator's business is considered a retail business if the business is a retail merchant as defined in IC 6-2.5-1-8.

(8) The name of any person or entity from whom the member or candidate received the following:

(A) Any gift of cash from a lobbyist.

C
o
p
y



(B) Any single gift other than cash having a fair market value in excess of ~~one hundred fifty~~ dollars ~~(\$100)~~: **(\$50)**.

However, a contribution made by a lobbyist to a charitable organization (as defined in Section 501(c) of the Internal Revenue Code) in connection with a social or sports event attended by legislators need not be listed by a member of the general assembly unless the contribution is made in the name of the legislator.

(C) Any gifts other than cash having a fair market value in the aggregate in excess of two hundred fifty dollars (\$250). Campaign contributions need not be listed. Gifts from a spouse or close relative need not be listed unless the donor has a substantial economic interest in a legislative matter.

(9) The name of any lobbyist who is:

(A) a member of a partnership or limited liability company;

(B) an officer or a director of a corporation; or

(C) a manager of a limited liability company;

of which the member of or candidate for the general assembly is a partner, an officer, a director, a member, or an employee, and a description of the legislative matters which are the object of the lobbyist's activity.

(10) The name of any person or entity on whose behalf the member or candidate has appeared before, contacted, or transacted business with any state agency or official thereof, the name of the state agency, the nature of the appearance, contact, or transaction, and the cause number, if any. This requirement does not apply when the services are rendered without compensation.

(11) The name of any limited liability company of which the member of the general assembly, the candidate, or the member's or candidate's individual spouse has an interest.

(b) Before any person who is not a member of the general assembly files the person's declaration of candidacy, declaration of intent to be a write-in candidate, or petition of nomination for office or is selected as a candidate for the office under IC 3-13-1 or IC 3-13-2, the person shall file with the clerk of the house or secretary of the senate, respectively, the same written statement of economic interests for the preceding calendar year that this section requires members of the general assembly to file.

(c) Any member of or candidate for the general assembly may file an amended statement upon discovery of additional information required to be reported.

SECTION 2. IC 2-7-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The activity reports of each

**C
o
p
y**



lobbyist shall include the following:

(1) A complete and current statement of the information required to be supplied under IC 2-7-2-3 and IC 2-7-2-4.

(2) Total expenditures on lobbying (prorated, if necessary) broken down to include at least the following categories:

(A) Compensation to others who perform lobbying services.

(B) Reimbursement to others who perform lobbying services.

(C) Receptions.

(D) Entertainment, including meals. However, a function to which the entire general assembly is invited is not lobbying under this article.

(E) Gifts made to an employee of the general assembly or a member of the immediate family of an employee of the general assembly.

(3) A statement of expenditures and gifts that equal ~~one hundred fifty~~ **fifty** dollars (~~\$100~~) (**\$50**) or more in one (1) day, or that together total more than five hundred dollars (\$500) during the calendar year, if the expenditures and gifts are made by the registrant or ~~his~~ **the registrant's** agent to benefit **any of the following**:

(A) A member of the general assembly.

(B) An officer of the general assembly.

(C) An employee of the general assembly. ~~or~~

(D) A member of the immediate family of anyone included in clause (A), (B), or (C).

(4) Whenever a lobbyist makes an expenditure that is for the benefit of all of the members of the general assembly on a given occasion, the total amount expended shall be reported, but the lobbyist shall not prorate the expenditure among each member of the general assembly.

(5) A list of the general subject matter of each bill or resolution concerning which a lobbying effort was made within the registration period.

(6) The name of the beneficiary of each expenditure or gift made by the lobbyist or ~~his~~ **the lobbyist's** agent that is required to be reported under subdivision (3).

(7) The name of each member of the general assembly from whom the lobbyist has received an affidavit required under IC 2-2.1-3-3.5.

(b) In the second semiannual report, when total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire reporting year.

(c) An amount reported under this section is not required to include

C
o
p
y



the following:

- (1) Overhead costs.
- (2) Charges for any of the following:
 - (A) Postage.
 - (B) Express mail service.
 - (C) Stationery.
 - (D) Facsimile transmissions.
 - (E) Telephone calls.
- (3) Expenditures for the personal services of clerical and other support staff persons who are not lobbyists.
- (4) Expenditures for leasing or renting an office.
- (5) Expenditures for lodging, meals, and other personal expenses of the lobbyist.

SECTION 3. IC 2-7-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) A lobbyist shall file a written report with respect to a member of the general assembly whenever either of the following occurs:

- (1) The lobbyist has made a purchase described in IC 2-2.1-3-2(a)(7) with respect to that member. This subdivision does not apply to purchases made by a lobbyist from a legislator's retail business made in the ordinary course of business at prices that are available to the general public. For purposes of this subdivision, a legislator's business is considered a retail business if the business is a retail merchant as defined in IC 6-2.5-1-8.

- (2) The lobbyist has made a gift described in IC 2-2.1-3-2(a)(8) to that member.

(b) A report required by subsection (a) must state the following:

- (1) The name of the lobbyist.
- (2) Whether the report covers a purchase described in IC 2-2.1-3-2(a)(7) or a gift described in IC 2-2.1-3-2(a)(8).

(c) A lobbyist shall file a copy of a report required by this section with all the following:

- (1) The commission.
- (2) The member of the general assembly with respect to whom the report is made.
- (3) The principal clerk of the house of representatives, if the legislator is a member of the Indiana house of representatives.
- (4) The secretary of the senate, if the legislator is a member of the Indiana senate.

(d) A lobbyist shall file a report required by subsection (a) not later than seven (7) days after making the purchase or giving the gift.

(e) Not later than January 7, the commission shall provide to each

**C
o
p
y**



1 member of the general assembly a written compilation of all reports
 2 filed under subsection (c) relating to that member. The compilation
 3 must satisfy the following:

4 (1) For each member the compilation must list the following for
 5 the immediately preceding calendar year:

6 (A) Each purchase described in IC 2-2.1-3-2(a)(7).

7 (B) Each gift described in IC 2-2.1-3-2(a)(8) itemized as
 8 follows:

9 (i) Any gift of cash from the lobbyist.

10 (ii) Any single gift from the lobbyist other than cash having
 11 a fair market value that exceeds ~~one hundred fifty~~ dollars
 12 ~~(\$100): (\$50).~~

13 (iii) Any gifts from the lobbyist other than cash having a fair
 14 market value in the aggregate that exceeds two hundred fifty
 15 dollars (\$250).

16 (2) For each purchase or gift, the compilation must identify the
 17 name of the lobbyist making the purchase or giving the gift.

18 SECTION 4. IC 2-7-5-6 IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The following persons may
 20 not be registered as a lobbyist under this article:

21 (1) Any individual convicted of a felony for violating any law
 22 while the individual was an officer or employee of any agency of
 23 state government or a unit of local government.

24 (2) Any person convicted of a felony relating to lobbying.

25 (3) Any person convicted of a felony and who:

26 (A) is in prison;

27 (B) is on probation; or

28 (C) has been in prison or on probation within the immediate
 29 past one (1) year.

30 (4) Any person: ~~whose:~~

31 (A) ~~whose~~ statement or report required to be filed under this
 32 article was found to be materially incorrect as a result of a
 33 determination under IC 2-7-6-5; and

34 (B) who has not filed a corrected statement or report for that
 35 year when requested to do so by the commission.

36 (5) Any person who has failed to pay a civil penalty assessed
 37 under IC 2-7-6-5.

38 (6) Any person who is on the most recent tax warrant list supplied
 39 to the commission by the department of state revenue until:

40 (A) the person provides a statement to the commission
 41 indicating that the person's delinquent tax liability has been
 42 satisfied; or

C
o
p
y



(B) the commission receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(b) An individual who ceases to hold a state office (as defined in IC 3-5-2-48) after June 30, 2010, may not be registered as a lobbyist under this article for three hundred sixty-five (365) days after the expiration of the term of office to which the individual was elected or appointed, regardless of whether the individual completes that term of office.

(c) This subsection does not apply to a special state appointee (as defined in IC 4-2-6-1). An individual who:

(1) holds a position in the executive branch of state government to which the individual was appointed by the governor; and

(2) ceases to hold that appointment after June 30, 2010; may not be registered as a lobbyist under this article for three hundred sixty-five (365) days after ceasing to hold the appointive position.

(d) An individual who:

(1) has served as a member of the general assembly; and

(2) ceases to be a member of the general assembly after June 30, 2010;

may not be registered as a lobbyist under this article during the period that ends three hundred sixty-five (365) days after the date that the term to which the individual was most recently elected as a member of the general assembly expires, regardless of whether the individual completes that term of office.

SECTION 5. IC 2-7-5-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) As used in this section, "conflict of interest" means a circumstance where:

(1) the representation of a client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one (1) or more clients will be materially limited by the lobbyist's responsibilities to:

(A) another client; or

(B) a personal interest of the lobbyist.

(b) Except as provided in subsection (c), a lobbyist may not represent a client if the representation involves a conflict of interest.

(c) Notwithstanding the existence of a conflict of interest, a lobbyist may represent a client if:

C
o
p
y



(1) the lobbyist reasonably believes that the lobbyist will be able to provide competent and diligent representation to each client;

(2) the representation is not otherwise prohibited by law;

(3) the representation does not require the lobbyist to assert a position on behalf of one (1) client that is opposed to the position of another client represented by the lobbyist involving the same legislative action; and

(4) each affected client gives informed consent to the conflict of interest in writing.

SECTION 6. IC 3-9-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) This section does not apply to:

(1) a member of the general assembly; or

(2) a candidate's committee of a member of the general assembly; with respect to an office other than a legislative office to which the member seeks election.

(b) As used in this section, "affected person" refers to any of the following:

(1) An individual who holds a legislative office.

(2) A candidate for a legislative office.

(c) As used in this section, "prohibited period" ~~means the period:~~ refers to the following periods:

(1) The period:

~~(1) beginning~~ (A) that begins on the day in January in each odd-numbered year the general assembly reconvenes under IC 2-2.1-1-2; and

~~(2) (B)~~ through the day the general assembly adjourns sine die in an odd-numbered year under IC 2-2.1-1-2.

(2) The period:

(A) that begins on the day before; and

(B) through the day after;

the day in November of each year on which the general assembly convenes.

(d) During the prohibited period, an affected person, an affected person's candidate's committee, and a legislative caucus committee may not do any of the following:

(1) Solicit campaign contributions.

(2) Accept campaign contributions.

(3) Conduct other fundraising activities. This subdivision does not prohibit an affected person from participating in party activities conducted by a regular party committee.

C
o
p
y



SECTION 7. IC 3-9-2-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12.5. (a) As used in this section, "prohibited period" refers to the following periods:**

(1) The period:

(A) that begins on the day in January in each odd-numbered year the general assembly reconvenes under IC 2-2.1-1-2; and

(B) through the day the general assembly adjourns sine die in an odd-numbered year under IC 2-2.1-1-2.

(2) The period:

(A) that begins on the day before; and

(B) through the day after;

the day in November of each year on which the general assembly convenes.

(b) During a prohibited period, the governor and the governor's candidate's committees may not do any of the following:

(1) Solicit campaign contributions.

(2) Accept campaign contributions.

(3) Conduct other fundraising activities. However, this subdivision does not prohibit the governor from participating in party activities conducted by a regular party committee.

SECTION 8. IC 3-9-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 2.5. Prohibition of Contributions by Certain State Contractors

Sec. 1. The definitions in IC 4-13-2.5 apply throughout this chapter.

Sec. 2. As used in this chapter, "affiliated person" refers to any of the following:

(1) A person with any ownership interest or distributive share of a business entity of more than seven and one-half percent (7.5%).

(2) An executive employee of a business entity.

(3) The spouse of an individual described in subdivision (1) or (2).

(4) The minor child of an individual described in subdivision (1) or (2).

(5) A subsidiary of a business entity.

(6) A member of the same unitary business group as a business entity.

C
o
p
y



(7) An organization recognized by the United States Internal Revenue Service as a tax exempt organization described in Section 501(c) of the Internal Revenue Code that is established by:

- (A) a business entity;
- (B) a person described in subdivision (1), (2), (3), or (4); or
- (C) an entity described in subdivision (5) or (6).

(8) A political action committee for which:

- (A) a business entity; or
- (B) any Section 501(c) organization described in subdivision (7) related to that business entity;

is a sponsor.

Sec. 3. As used in this chapter, "business entity" refers to any of the following doing business for profit:

- (1) A sole proprietorship.
- (2) A partnership.
- (3) A limited liability partnership.
- (4) A limited liability company.
- (5) A corporation.
- (6) Any other person doing business for profit, regardless of the person's legal organization.

Sec. 4. As used in this chapter, "executive employee" refers to any of the following:

- (1) The president of a business entity.
- (2) The chairman of a business entity.
- (3) The chief executive officer of a business entity.
- (4) An employee of a business entity:
 - (A) who has executive decision making authority over the long term and day to day affairs of the business entity; or
 - (B) whose compensation is determined directly, in whole or in part, by the award of, or payment under, contracts with the state to the business entity.

Sec. 5. As used in this chapter, "registrant" refers to a person registered under this chapter.

Sec. 6. As used in this chapter, "sponsor" refers to an individual or organization that contributes at least thirty-three percent (33%) of the total funding of a political action committee.

Sec. 7. (a) This section applies to the following:

- (1) A business entity whose annual aggregate offers for contracts total more than one hundred thousand dollars (\$100,000).
- (2) A business entity whose aggregate offers for contracts

C
o
p
y



combined with the business entity's aggregate annual total value of contracts exceed one hundred thousand dollars (\$100,000).

(3) A business entity whose contracts, in the aggregate, annually total more than one hundred thousand dollars (\$100,000).

(b) A business entity described in subsection (a) shall register with the department as provided in this chapter.

(c) A business entity described in subsection (a)(1) or (a)(2) shall register with the department before submitting an offer whose value causes the business entity to fall within the description of subsection (a)(1) or (a)(2).

(d) A business entity described in subsection (a)(1) or (a)(2) has a continuing duty to ensure that the registration is accurate during the period that:

(1) begins on the date of registration; and

(2) ends on the day after the date the contract is awarded.

A change in information must be reported to the department not later than two (2) business days following the change.

(e) A business entity whose contracts, in the aggregate, annually total more than one hundred thousand dollars (\$100,000) shall maintain registration under this chapter and has a continuing duty to ensure that the registration is accurate for:

(1) four (4) years after the date of the award of the contract; or

(2) one (1) year after the expiration or termination of the contract;

whichever is longer.

(f) A change in information must be reported to the department not later than ten (10) days following the change. However, if a business entity required to register under this section has a pending offer, a change in information must be reported to the department not later than two (2) business days after the change.

(g) A business entity's continuing duty under this chapter to ensure the accuracy of the business entity's registration includes the requirement that the business entity notify the department of any changes in information relating to affiliated persons or any other material changes.

Sec. 7.1. (a) This section applies to a business entity that on July 1, 2010, is described by section 7(a) of this chapter.

(b) A business entity described in subsection (a) shall register as provided in this chapter not later than September 1, 2010.

C
o
p
y



(c) This section expires January 1, 2012.

Sec. 8. (a) The registration required under this chapter and any changes to that registration must be made electronically. The department may provide for the details of electronic registration by rule adopted under IC 4-22-2 that is not inconsistent with this chapter.

(b) A registration must contain substantially the following information:

(1) The registrant's name and business address.

(2) The name and address of each of the registrant's affiliated persons with a description of the affiliation for each person.

(c) A registration and any changes to a registration must be certified, under the penalties for perjury, that, to the best of the person's knowledge and belief, the information stated is true.

(d) The department shall provide a registration certificate to a person that registers under this chapter.

(e) A registration certificate must be:

(1) electronic;

(2) accessible to the registrant through the department's web site; and

(3) protected by a password.

Sec. 9. (a) For purposes of this section, a data base maintained by the department is "searchable" if the data base can be searched by the following terms:

(1) Affiliated person.

(2) Registrant.

(3) State agency.

(b) The department shall maintain on its web site a searchable data base containing all information required to be submitted to the department under this chapter.

(c) The data base must contain links to any searchable data base of state contracts maintained by the state, searchable by registrant.

(d) The data base must be fully accessible to the election division as determined by the election division and the department.

(e) The name of a minor child may not be placed in a location in the data base that is accessible to the public. Public information relating to a minor child must:

(1) be designated as relating to a minor child; and

(2) must provide a link to all contributions made by anyone reporting the same residential address as the minor child.

Sec. 10. A registrant shall provide a copy of the registration certificate:

C
o
p
y



- (1) by first class mail or hand delivery;
- (2) not later than ten (10) days after registration; and
- (3) to each affiliated person whose identity is required to be disclosed under this chapter.

Sec. 11. (a) A registrant shall notify any political action committee to which the registrant makes a contribution, at the time of the contribution, that the person is registered with the department under this chapter.

(b) An affiliated person of a registrant shall notify any political action committee to which the affiliated person makes a contribution that the affiliated person is affiliated with a registrant.

Sec. 12. (a) During the period described in subsection (b):

- (1) a registrant who has a contract; and
- (2) affiliated persons of the registrant described in subdivision (1);

may not make a contribution to an individual who holds a state office or is a candidate for a state office.

(b) The prohibition on contributions under this section:

- (1) begins on the date of the award of the contract to the registrant; and
- (2) ends on the later of the following:
 - (A) four (4) years after the date that a contract is awarded to the registrant; and
 - (B) one (1) year after the date of the expiration or termination of the contract.

Sec. 13. (a) During the period described in subsection (b):

- (1) a registrant who has no contracts but has an offer pending; and
- (2) affiliated persons of the registrant described in subdivision (1);

may not make a contribution to an individual who holds a state office or is a candidate for a state office.

(b) The prohibition on contributions under this section:

- (1) begins on the date that the solicitation is issued; and
- (2) ends on the day after the date the contract is awarded.

Sec. 14. (a) A candidate or a candidate's committee that receives a contribution from a person who is prohibited from making a contribution under section 12 or 13 of this chapter shall pay an amount equal to the value of the contribution to the election division not later than thirty (30) days after receiving the contribution.

(b) The election division shall deposit payments made under this

C
O
P
Y



1 **section in the campaign finance enforcement account established**
 2 **by IC 3-6-4.1-24.**

3 SECTION 9. IC 3-9-4-16, AS AMENDED BY P.L.221-2005,
 4 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2010]: Sec. 16. (a) In addition to any other penalty imposed,
 6 a person who does any of the following is subject to a civil penalty
 7 under this section:

8 (1) Fails to file with the election division a report in the manner
 9 required under IC 3-9-5.

10 (2) Fails to file a statement of organization required under
 11 IC 3-9-1.

12 (3) Is a committee or a member of a committee who disburses or
 13 expends money or other property for any political purpose before
 14 the money or other property has passed through the hands of the
 15 treasurer of the committee.

16 (4) Makes a contribution other than to a committee subject to this
 17 article or to a person authorized by law or a committee to receive
 18 contributions on the committee's behalf.

19 (5) Is a corporation or labor organization that exceeds any of the
 20 limitations on contributions prescribed by IC 3-9-2-4.

21 (6) Makes a contribution in the name of another person.

22 (7) Accepts a contribution made by one (1) person in the name of
 23 another person.

24 (8) Is not the treasurer of a committee subject to this article, and
 25 pays any expenses of an election or a caucus except as authorized
 26 by this article.

27 (9) Commingles the funds of a committee with the personal funds
 28 of an officer, a member, or an associate of the committee.

29 (10) Wrongfully uses campaign contributions in violation of
 30 IC 3-9-3-4.

31 (11) Violates IC 3-9-2-12 **or IC 3-9-2-12.5.**

32 (12) Fails to designate a contribution as required by IC 3-9-2-5(c).

33 (13) Violates IC 3-9-3-5.

34 (14) Serves as a treasurer of a committee in violation of any of the
 35 following:

36 (A) IC 3-9-1-13(1).

37 (B) IC 3-9-1-13(2).

38 (C) IC 3-9-1-18.

39 (15) Fails to comply with section 4(d) of this chapter.

40 **(16) Violates IC 3-9-2.5.**

41 (b) This subsection applies to a person who is subject to a civil
 42 penalty under subsection (a)(1) or (a)(2) for filing a defective report or

C
o
p
y



statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12 **or IC 3-9-2-12.5**, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of any contributions received.
- (2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a

C
o
p
y



corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

- (1) Two (2) times the amount of the contributions undesignated.
- (2) One thousand dollars (\$1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has served as the treasurer of a committee in violation of any of the statutes listed in subsection (a)(14), the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(j) This subsection applies to a person who is subject to a civil penalty under subsection (a)(15). The commission may assess a civil penalty equal to the costs incurred by the election division for the manual entry of the data contained in the report or statement, plus any investigative costs incurred and documented by the election division.

(k) This subsection applies to a person who is subject to a civil penalty under subsection (a)(16). The commission may assess a civil penalty of not more than:

- (1) one thousand dollars (\$1,000) for each business day that a person knowingly or intentionally:**

- (A) fails to update a registration required by IC 3-9-2.5;**
- (B) fails to provide material information on a registration required by IC 3-9-2.5; or**
- (C) states false information on a registration required by IC 3-9-2.5; or**

- (2) one thousand dollars (\$1,000) for any other violation of IC 3-9-2.5;**

plus any investigative costs incurred and documented by the election division.

~~(k)~~ **(l)** All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

~~(k)~~ **(m)** Proceedings of the commission under this section are subject

C
o
p
y



to IC 4-21.5.

SECTION 10. IC 3-14-1-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 17. A person who recklessly, knowingly, or intentionally makes a contribution in violation of IC 3-9-2.5 commits a Class B misdemeanor.**

SECTION 11. IC 4-2-6-10.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10.2. (a) The following may not solicit political contributions on behalf of a candidate for public office, unless the soliciting individual is a candidate for public office:**

(1) An appointing authority.

(2) An employee who has purchasing or procurement authority.

SECTION 12. IC 4-2-6-10.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10.3. (a) A state officer, state employee, or special state appointee may not accept other employment involving compensation of substantial value if:**

(1) the responsibilities of that employment are inherently incompatible with the responsibilities of public office or employment; or

(2) the employment requires the individual's recusal from matters so central or critical to the performance of the individual's official duties that the individual's ability to perform those duties would be materially impaired.

(b) The inspector general shall create procedures for the issuance of advisory opinions granting approval for outside employment.

(c) An advisory opinion issued under subsection (b) that grants approval for outside employment is conclusive proof that the employment that is the subject of the advisory opinion is not in violation of this section.

SECTION 13. IC 4-13-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 2.5. Political Contributions of Offerors and Contractors

Sec. 1. This chapter applies to every:

(1) offer submitted to a state agency; and

(2) contract awarded by a state agency;

after June 30, 2010.

C
o
p
y



1 **Sec. 2. (a) As used in this chapter, "contract" refers to a**
 2 **contract for:**

- 3 (1) goods;
 4 (2) services, including professional services;
 5 (3) a public works project; or
 6 (4) a highway project;

7 **awarded by a state agency.**

8 **(b) A contract awarded by a state agency under:**

- 9 (1) IC 4-13.6;
 10 (2) IC 5-22;
 11 (3) IC 5-23;
 12 (4) IC 8-23; or
 13 (5) any other statute;

14 **is considered a contract for purposes of this chapter.**

15 **Sec. 3. As used in this chapter, "contract officer" refers to the:**

- 16 (1) purchasing agent under IC 5-22; or
 17 (2) state officer or employee responsible for awarding a
 18 **contract.**

19 **Sec. 4. As used in this chapter, "contractor" refers to a person**
 20 **who has been awarded a contract with a state agency.**

21 **Sec. 5. As used in this chapter, "department" refers to the**
 22 **Indiana department of administration established by IC 4-13-1-2.**

23 **Sec. 6. (a) As used in this chapter, "offer" means a response to**
 24 **a solicitation.**

25 **(b) The term includes a bid, proposal, and quote.**

26 **Sec. 7. As used in this chapter, "offeror" means a person who**
 27 **submits an offer to a state agency.**

28 **Sec. 8. (a) As used in this chapter, "solicitation" means the**
 29 **procedure by which a state agency invites persons to submit an**
 30 **offer to enter into a contract with the state agency.**

31 **(b) The term includes an invitation for bids, a request for**
 32 **proposals, and a request for quotes.**

33 **Sec. 9. As used in this chapter, "state agency" refers to any of**
 34 **the following:**

- 35 (1) A state agency (as defined in IC 4-13-1-1(b)).
 36 (2) An entity established by the general assembly as a body
 37 corporate and politic that is governed by a body, any of whose
 38 **members are:**

- 39 (A) the governor; or
 40 (B) appointed by the governor.

41 **Sec. 10. Every offer submitted to, and contract entered into by,**
 42 **a state agency must contain the following:**

C
O
P
Y



- 1 (1) A certification by the offeror or contractor that either:
 2 (A) the offeror or contractor is not required to register
 3 with the department under IC 3-9-2.5; or
 4 (B) the offeror or contractor has registered with the
 5 department under IC 3-9-2.5 and acknowledges a
 6 continuing duty to update the registration.
 7 (2) A statement that the contract is voidable under section 11
 8 or 12 of this chapter for the offeror's or contractor's failure
 9 to comply with this chapter or IC 3-9-2.5.

10 Sec. 11. (a) A copy of an offeror's registration certificate must
 11 accompany an offer by a person required to register under this
 12 chapter.

13 (b) A contracting officer may not accept an offer unless the
 14 offeror's registration certificate is submitted with the offer.

15 Sec. 12. In addition to any penalty under this chapter or
 16 IC 3-9-2.5, the knowing or intentional failure to disclose material
 17 information required for registration renders:

- 18 (1) the offeror nonresponsible; or
 19 (2) a contract voidable by the contract officer if the contract
 20 officer considers it to be in the best interest of the state.

21 Sec. 13. (a) This section applies to a contract with a person who
 22 violates IC 3-9-2.5-12 or IC 3-9-2.5-13.

23 (b) A contract described in subsection (a) is voidable by the
 24 contract officer if the contract officer considers it to be in the best
 25 interest of the state.

26 (c) A contract described in subsection (a) is terminated by
 27 operation of law if the affected person violates IC 3-9-2.5-12 or
 28 IC 3-9-2.5-13 more than two (2) times. The affected person is also
 29 considered a nonresponsible offeror for three (3) years after the
 30 date of the most recent violation.

C
O
P
Y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred House Bill 1001, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

GIAQUINTA, Chair

Committee Vote: yeas 10, nays 0.

**C
o
p
y**

